



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,184	07/23/2001	Peter David Stokes	24615.00300	2589

7590 09/10/2003

Malcolm B. Wittenberg
Crosby, Heafey, Roach & May
P.O. Box 7936
San Francisco, CA 94120-7936

EXAMINER

TON, ANABEL

ART UNIT	PAPER NUMBER
----------	--------------

2875

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/911,184

Applicant(s)

STOKES ET AL.

Examiner

Anabel M Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-21, 23-34 and 36-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-12, 21, 23-34, 36, 38 and 39 is/are rejected.
- 7) ☒ Claim(s) 13-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 9-12 and 21- is withdrawn in view of the newly discovered reference(s) to the sealing of the inner member within the slot.

Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

2. Claims 27 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 27 recites " an optional fluid protective cover layer". The term "optional" renders the claim indefinite since it is not clear whether it is part of the invention.

3. As best understood, the following rejection is being made.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5,8-12 and 21,23-34,36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien and further in view of Boodle (6,276,634).

6. Chien discloses the claimed invention except for the recitation of sealing the internal member within the slot. Boodle discloses the teaching of sealing a photoluminescent strip between two covering strips that enclose it (col.8 lines 42-47). Chien discloses providing an elongate hollow outer member (6) and an elongate inner member (5) having photoluminescent material on at least one side, said outer member being of unitary box-section having first and second major wall portions and opposed side wall portions (17), said first and second major wall portions extending between and integral with said side wall portions to define a longitudinally extending slot, and push-fitting said inner member in said outer member from one end of said outer member whereby said inner member is surrounded and enclosed by said first and second major wall portions of opposed side wall portions of said outer member(col. 5 lines 1-8), wherein said outer member is formed with an internal longitudinal slot for inserting said inner member. Boodle discloses sealing said an inner photoluminescent member within a slot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to seal the inner member of Chien within the slot since as taught by Boodle, sealing a photoluminescent strip within a covering to prevent any intrusion of harmful external elements into the slot holding the photoluminescent strip.

- Outer member is made of a light transmitting material.
- Outer member is made of transparent or translucent plastics.
- Inner member is sufficiently rigid to be push fitted in said outer member.
- Said inner member is made of metal coated on at least one side with photoluminescent material (col. 6 lines 50-56, Boodle)

- Said inner member is removable from said outer member (Chien col. 5 lines 1-8)
- The track can be laid to present either one of two major surfaces of said outer member uppermost with said photo luminescent material of said inner member disposed to emit light through said uppermost surface (Chien fig. 1);
- Said inner member has photoluminescent material on one side only and is reversible to present said photoluminescent side uppermost in both orientations of said track.
- With regards to the inner member having photoluminescent material on both sides, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the PL material on both sides of the inner member since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.* 193 USPQ 8.
- Said outer member is compressed in a direction transverse to its length after said inner member has been inserted to reduce the depth of said track (col. 7 lines 1-10, Chien).
- Said closure comprises an end cap that can be removed if it is desired to remove said inner member, (col. 2 lines 55-59, Boodle).
- Said inner member is the same or substantially the same length as said outer member.
- Wherein said inner member is substantially the same width as said outer member.

- Said outer member is symmetrical enabling said outer member to be laid either way up.
- Said major wall portions of said outer member have substantially planar outer surfaces.
- Said outer surface of at least that major wall portion overlaying said photoluminescent material is provided with formations having anti-slip characteristics (Boodle).
- With regards to said outer surface of at least that major wall portion overlaying said photoluminescent material being provided with formations having anti-slip characteristics, and wherein said formations are restricted to side edge regions of said outer surface, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the photoluminescent lighting panel of Chien with formations having anti-slip characteristics since as taught by Boodle, these formations on such a lighting device is old and well known in the art for the purpose of providing an anti slip surface, further more, although Boodle discloses these surfaces on side portions of the lighting device (Fig 6), it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70. .
- With regards to said formations comprise a series of axially spaced transverse ribs of v-shape, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an anti slip surface of axially spaced

transverse ribs of v-shape since such a surface would be flush and not protruding providing a less pronounced anti-slip surface.

- An assembled track is subjected to a post forming operation to compress said outer member in a direction transverse to the length and thereby reduce the depth of said track (col. 7, lines 1-10 Chien).
- With regards to claim 36, Chien discloses the claimed invention except for the recitation of the inner member being coated with a metal on at least one side of the photoluminescent material. Boodle discloses providing a metal coating on at least one side of the photoluminescent material an elongate hollow outer member and an elongate inner member having photoluminescent material on at least one side, said outer member being of unitary box-section having first and second major wall portions and opposed side wall portions, said first and second major wall portions extending between and integral with said side wall portions to define a longitudinally extending slot, and push-fitting said inner member in said outer member from one end of said outer member whereby said inner member is surrounded and enclosed by said first and second major wall portions of opposed side wall portions of said outer member, wherein said inner member is sufficiently rigid to be push fitted in said outer member, and said inner member is made of metal coated on at least one side with photoluminescent material (col. 6 lines 50-56, Boodle). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a photoluminescent strip as the one in

Chien with a metal coating for the purpose of providing a reflective surface to providing a highly visible light emission.

Allowable Subject Matter

7. Claims 13-20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claim 37 is allowed.
 - Said assembled track is passed between a pair of pressure rollers engaging said top and bottom surfaces of said outer member.
 - A method of manufacturing a photoluminescent track for an emergency lighting system comprising providing an elongate hollow outer member and an elongate inner member having photoluminescent material on at least one side, and push-fitting said inner member in said outer member from one end, wherein said outer member is compressed in a direction transverse to its length after said inner member has been inserted to reduce the depth of said track, wherein said assembled track is passed between a pair of pressure rollers engaging said top and bottom surfaces of said outer member.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

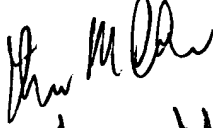
Art Unit: 2875

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Anabel M Ton
Examiner
Art Unit 2875

AMT


Thomas M. Sunko
Art Unit 2875